IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6205 OF 1996
WITH
CIVIL APPLICATION NO. 7624 OF 1996

M/s. Union Industires & anr. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 6206 OF 1996
WITH
CIVIL APPLICATION NO. 7626 OF 1996

Liberty Oil Mills Ltd. and anr. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

WITH
WIRT PETITION NO. 6305 OF 1996

G.B.K. Exports Ltd. and anr. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 6306 OF 1996
WITH
CIVIL APPLICATION NO. 7757 OF 1996

Lanyard Foods Ltd. and anr. .. Petitioners

Vs.

The State of Maharashtra and ors. .. Respondents

WITH
WRIT PETITION NO. 6315 OF 1996
WITH
CIVIL APPLICATION NO.7786 OF 1996

Ruchi Soya Industries Ltd. and anr. .. Petitioners

Vs.

The State of Maharashtra and ors. .. Respondents

Mr. Hiralal Thacker, Senior Advocate with Ms. K. Belgani i/by Ms. Eventa A. Gonsalves for the petitioners in all the above matters.
Mr. P.M. Patil, AGP for respondent no.1 in all the above matters.
Mr. K.K. Singhavi, Senior. Advocate with Mr. Y.R. Naik with Mr. Prashant Naik for respondent nos.2 and 3.

WITH
WRIT PETITION NO. 1243 OF 2002

The Bombay Sugar Merchants
Association & Anr ..Petitioners

Vs.

The State of Maharashtra and ors. .. Respondents

Mr. C.M. Korde with Mr. V.B. Naik for petitioners.
Mr. P.M. Patil, AGP for respondent nos.1 and 2.
Mr. Y.R. Naik for respondent no.3.

WITH
WRIT PETITION NO. 4743 OF 1998
WITH
CIVIL APPLICATION NO. 553 OF 2002

M/s. B.S.I. Ltd. ..Petitioner

Vs.

The State of Maharashtra and ors. ..Respondents

Mr. R.G. Ketkar for petitioner.
Mr. P.M. Patil, AGP for respondent nos.1,3 & 4.
Mr. K.K. Singhavi, Senior Advocate with Mr. Y.R. Naik with Mr. Prashant Naik for respondent no.2.

WITH
WIRT PETITION NO. 6801 OF 2000

M/s. Veesha International & Ors. ..Petitioners

Vs.

Mumbai Agricultural Produce
Market Committee & Ors. ..Respondents

Mr. Ranjit R. Bhosale i/b M/s. Mulla & Mulla and C.B.C. for petitioner.

Mr. N.N. Bhadrashete for respondent no.1.
Mr. P.M. Patil, AGP for respondent nos.2 to 4.

CORAM: B.H. MARLAPALLE &
D.B. BHOSALE,JJ.

Dated: June 16, 2006.

P.C.:-

1. In view of our Judgments in Writ Petition Nos.1072/91 (OS), 3278/91 (OS), 6270/96 (AS), 353/98 (OS) and 1341/98 (OS) rendered today and for the reasons stated therein we hold that,

(a) Vanaspati, refined edible oil or edible oil, sugar, cashew nuts and dry fruits are agricultural produce within the meaning of Section 2(1)(a) of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (for short the Act).

(b) The notification dated 25/9/1987 issued by the State Government under Section 62 of the said Act does not suffer from any illegality and, therefore, challenge to the same fails.

(c) The APMC, Mumbai, has the right to levy and demand market fees on the marketing of all these agri produce, namely, vanaspati, refined

edible oil/edible oil, sugar, cashew nuts and dry fruits etc. under Section 31 of the Act read with Rule 5 of the Rules 1967 framed thereunder, within its market area.

(d) The APMC, Mumbai, has no powers to demand and recover supervision charges under Section 34A of the Act for the time being and such a power can be exercised only after the Government's staff is engaged for the marketing of these agri produce procured/purchased by the petitioner-company/ association within the market area of the said Committee.

(e) The APMC, Mumbai cannot levy and demand market fees on any of these agri produce if they are purchased/procured outside its area and transported within its area by the concerned petitioners for their self consumption. However, if any or all of these agri produce are procured from outside or imported from other countries and sold/marketed within the area of the APMC, Mumbai, it has the power to levy and demand the market fees under Section 31 of the Act.

(f) The APMC, Mumbai is not justified in charging interest on the amount of market fees in the case of any of the petitioners for the part dues, if any, when these petitions were filed.

(g) So far as the future arrangements are concerned, we reiterate our observations in para 18 of our Judgment in Writ Petition Nos.353 and 1341 of 1998 and once it is shown by the APMC, Mumbai that Government's staff has been engaged for the supervision of marketing of any of these agri produce, sold/marketed by any of the petitioners by deputing them in the premises/depots of the petitioners located anywhere under the market area of the Committee henceforth, the Committee has the right to levy supervision charges as well, at the rates prescribed by the State Government from time to time.

(h) The APMC, Mumbai shall hear the petitioners concerned and pass fresh orders of demand for the recovery of market fees within a period of three months, on the lines of the decisions/directions rendered by us in the above mentioned petitions. During the course of such hearing, the petitioners concerned

shall place before the APMC all the documentary record regarding the marketing of any or all of these agri produce within the market area of the Committee as well as outside its market area, so that the Committee is able to levy the market fees only to the extent of marketing that has taken place within its area, on the concerned agri produce.

. All the petitions disposed off accordingly.

. In view of the disposal of the petitions, the Civil Applications, except C.A.No.553/02 in W.P. No.4743/98, therein does not survive and stands disposed as such.

. C.A. No.553/02 in W.P. No.4743/98 for adding prayer clause is allowed. Amendment be carried out forthwith.

(D.B. Bhosale,J.) **(B.H. Marlapalle,J.)**